

# State of Colorado



Bill Ritter, Jr.  
*Governor*

Rich Djokic  
*Board Chair*

Kristin F. Rozansky  
*Board Director*

**State Personnel Board**  
633 17<sup>th</sup> Street, Suite 1320  
Denver, Colorado 80202-3604  
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## **AGENDA PUBLIC BOARD MEETING September 16, 2008**

A public meeting of the State Personnel Board will be held on **Tuesday, September 16, 2008, at the Colorado State Personnel Board, 633 17th Street, Suite 1400, Courtroom 1, Denver, Colorado 80202-3604.** The public meeting will commence at 9:00 a.m.

Reasonable accommodation will be provided **upon request** for persons with disabilities. If you are a person with a disability who requires an accommodation to participate in this meeting, please notify Board staff at 303-866-3300 by September 11, 2008.

### **I. REPORT OF RICH GONZALES, STATE PERSONNEL DIRECTOR (EXECUTIVE DIRECTOR, DEPARTMENT OF PERSONNEL AND ADMINISTRATION [DPA])**

### **II. REQUESTS FOR RESIDENCY WAIVERS**

September 1, 2008 Report on Residency Waivers

### **III. PENDING MATTERS**

There are no pending matters before the Board for review.

### **IV. REVIEW OF INITIAL DECISIONS OR OTHER FINAL ORDERS OF THE ADMINISTRATIVE LAW JUDGES ON APPEAL TO THE STATE PERSONNEL BOARD**

There are no Initial Decisions or other Final Orders of the Administrative Law Judges on appeal to the Board this month.

### **V. REVIEW OF PRELIMINARY RECOMMENDATIONS OF THE ADMINISTRATIVE LAW JUDGES TO GRANT OR DENY PETITIONS FOR HEARING**

#### **A. Roger T. Carroll v. Regents of the University of Colorado at Denver & Health Science Center, Facilities Management, State Personnel Board case number 2009G003.**

Complainant appeals the denial of his grievance, which challenged the simultaneous imposition of both a corrective action and a performance improvement plan.

Respondent asserts that Complainant is not entitled to a discretionary hearing because he has presented no legal basis for his appeal.

On September 3, 2008, the Administrative Law Judge issued a Preliminary Recommendation, recommending that the petition for hearing be denied.

- B. Tim Barwick v. Department of Corrections, State Personnel Board case number 2008G090.

Complainant, a probationary Correctional Officer I employed by the Department of Corrections, filed a petition for hearing on June 27, 2008, arguing that he should not have been fired because he had signed a refusal to take a blood alcohol test not long after being involved in a motorcycle accident during which a blow to the head had rendered him unconscious for a period of time.

Respondent argues that Complainant failed to meet his burden of showing that grounds exist under C.R.S. § 24-50-123(3) that merit a full hearing, and that the department was justified in terminating Complainant's employment because a refusal to agree to a test for blood alcohol levels was the type of action which cast doubt upon the integrity of the DOC and constituted conduct unbecoming.

On September 4, 2008, the Administrative Law Judge issued a Preliminary Recommendation, recommending that the petition for hearing be granted.

#### **VI. INITIAL DECISIONS OR OTHER FINAL ORDERS OF THE ADMINISTRATIVE LAW JUDGES**

- A. Frank Prorock v. Department of Corrections, State Personnel Board case number 2008B103 (August 21, 2008).

On August 21, 2008, the Administrative Law Judge issued an Order Granting Respondent's Motion Summary Judgment and dismissing Complainant's appeal with prejudice. The ALJ found that the only factual dispute raised by Complainant was the extent to which Complainant was trained to perform the Master Control sergeant duties; Complainant did not contest Respondent's assertion that he worked twelve shifts in the Master Control unit under the supervision of another Sergeant; and Complainant worked in the CO II position for six months under the supervision of another Sergeant in Master Control on at least twelve shifts during trial service. The ALJ concluded that no issue of material fact has been raised which could alter the mandatory application of Board Rule 4-28(A) (reversion of trial service employees for unsatisfactory performance), and thus, Complainant has no right to a hearing.

#### **VII. REVIEW OF THE MINUTES FROM THE AUGUST 19, 2008 PUBLIC MEETING OF THE STATE PERSONNEL BOARD**

#### **VIII. ACKNOWLEDGMENTS**

##### **DECISIONS OF THE STATE PERSONNEL BOARD MADE AT ITS AUGUST 19, 2008 PUBLIC MEETING:**

- A. Peter S. Herrera v. Department of Human Services, Division of Youth Corrections, State Personnel Board case number 2008S013.

The Board adopted the Order Denying the Request for Extension of Time; Dismissal Order and made it an Order of the Board with respect to the disciplinary termination only. Further, the Board ordered that the matter be referred to the State Personnel Director for a Director's review regarding selection issues, including the removal of Complainant's name from the eligibility list for rehire.

#### **IX. REPORT OF DAVID KAYE, DIRECTOR OF THE DIVISION OF HUMAN RESOURCES, DPA**

- Human Resources Planning for Pandemic Influenza
- Recommendations to the Governor, the State Personnel Board, and the State Personnel Director
- Memorandum from the Colorado Department of Public Health & Environment regarding federal questionnaire on state pandemic planning
- DPA Responses to federal questionnaire on pandemic planning

**X. ADMINISTRATIVE MATTERS & COMMENTS**

**A. ADMINISTRATIVE MATTERS**

- Cases on Appeal to the Board and to Appellate Courts
- Frequently Asked Questions Regarding Executive Order D 028 07 Authorizing Partnership Agreements with State Employees
- Mandate/Order Affirmed in Anthony v. Department of Revenue, State Personnel Board Case No. 2007G006, Court of Appeals No. 07CA1747
- Orders Set Aside in Part, Vacated in Part, and Case Remanded with Directions, Bennett v. Department of Corrections, State Personnel Board case number 2003B150, Court of Appeals No. 07CA0741

**B. OTHER BOARD BUSINESS**

- Staff Activities

**C. GENERAL COMMENTS FROM ATTORNEYS, EMPLOYEE ORGANIZATIONS, PERSONNEL ADMINISTRATORS, AND THE PUBLIC**

**XI. PROPOSED LEGISLATION AND/OR RULEMAKING**

**XII. EXECUTIVE SESSION**

- A. Case Status Report
- B. Minutes of the August 19, 2008 Executive Session
- C. Other Business

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**NEXT REGULARLY SCHEDULED BOARD MEETINGS - 9:00 a.m.**

<b>October 21, 2008</b>	<b>Colorado State Personnel Board 633 17th Street, Suite 1400, Courtroom 1 Denver, CO 80202-3604</b>
<b>November 18, 2008</b>	<b>Colorado State Personnel Board 633 17th Street, Suite 1400, Courtroom 1 Denver, CO 80202-3604</b>
<b>December 16, 2008</b>	<b>Colorado State Personnel Board 633 17th Street, Suite 1400, Courtroom 1 Denver, CO 80202-3604</b>
<b>January 20, 2009</b>	<b>Colorado State Personnel Board 633 17th Street, Suite 1400, Courtroom 1 Denver, CO 80202-3604</b>
<b>February 17, 2009</b>	<b>Colorado State Personnel Board 633 17th Street, Suite 1400, Courtroom 1 Denver, CO 80202-3604</b>
<b>March 17, 2009</b>	<b>Colorado State Personnel Board 633 17th Street, Suite 1400, Courtroom 1 Denver, CO 80202-3604</b>
<b>April 21, 2009</b>	<b>Colorado State Personnel Board 633 17th Street, Suite 1400, Courtroom 1 Denver, CO 80202-3604</b>
<b>May 19, 2009</b>	<b>Colorado State Personnel Board 633 17th Street, Suite 1400, Courtroom 1 Denver, CO 80202-3604</b>
<b>June 16, 2009</b>	<b>Colorado State Personnel Board 633 17th Street, Suite 1400, Courtroom 1 Denver, CO 80202-3604</b>